

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

ALTEC CAPITAL SERVICES, LLC	)	
d/b/a Equipment Finance Partners,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case Number:
	)	2:11-cv-2809-PWG
XCELL ENERGY AND COAL	)	
COMPANY, LLC; GREGG	)	
STEINHAUSER; and ZAKAY NATHAN,	)	
	)	
Defendants.	)	

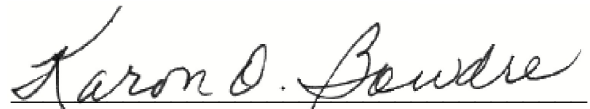
**MEMORANDUM OPINION AND ORDER**

The plaintiff Altec Capital Services, LLC d/b/a Equipment Finance Partners (hereinafter “Altec”), in this diversity action, brings claims against Xcell Energy and Coal Company, LLC (“Xcell”), Gregg Steinhauser (“Steinhauser”), and Zakay Nathan (“Nathan”) (collectively “defendants”), alleging that they are liable for breach of contract and on an account stated. (doc. 14). This matter is before the court on the defendant Nathan’s motion to dismiss, which asserts a lack of personal jurisdiction and that the Complaint fails to state a claim (doc. 24) and plaintiff Altec’s motion for a default judgment against the other two defendants, Xcell and Steinhauser (doc. 30). On December 21, 2011, the magistrate judge to whom the case is assigned under a general order of reference entered findings and a recommendation that Nathan’s motion to dismiss is due to be denied and that Altec’s motion for default judgment against Xcell and Steinhauser is due to be granted (doc. 34). No party filed any objections.

Having carefully reviewed and considered *de novo* all the materials in the court file, the court

finds that the magistrate judge's report is due to be ADOPTED and ACCEPTS his recommendation. Accordingly, the court DENIES defendant Nathan's motion to dismiss, which asserts a lack of personal jurisdiction and that the Complaint fails to state a claim (doc. 24). Accordingly, the claims against defendant Nathan shall proceed. The court GRANTS plaintiff Altec's motion for a default judgment against the other two defendants, Xcell and Steinhauser (doc. 30). The court will enter an appropriate separate default judgment against Xcell and Steinhauser.

DONE AND ORDERED this 7<sup>th</sup> day of March 2012.

  
KARON OWEN BOWDRE  
UNITED STATES DISTRICT JUDGE